

## LEGISLATIVE PROCEDURES ENACTED IN LAW

Congress has, from time to time, passed laws reserving to itself an absolute or limited right of review by approval or disapproval of certain actions of the executive branch or of independent agencies. These laws usually envision some form of congressional action falling into one of three general categories: (1) action by both Houses of Congress on a bill or joint resolution requiring presidential signature; (2) action by one or both Houses of Congress on a simple or concurrent resolution; and (3) action by a congressional committee. Although provisions in the first category remain viable, provisions in the latter two categories should be read in light of *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983). In that case the Supreme Court held unconstitutional as in violation of the presentment clause of article I, section 7, and the doctrine of separation of powers the provisions of the Immigration and Nationality Act contemplating disapproval of a decision of the Attorney General to allow an otherwise deportable alien to remain in the United States by simple resolution of one House. That same year, the Supreme Court summarily affirmed several lower court decisions invalidating provisions contemplating disapproval of executive actions by methods described in both categories (2) and (3) above. 463 U.S. 1216 (1983). Since then, Congress has amended several “legislative procedure” statutes to convert provisions requiring simple or concurrent resolutions to provisions requiring joint resolutions.

Many “legislative procedure” statutes prescribe special procedures for the House to follow when reviewing executive actions. These procedures, termed “privileged procedures,” technically are Rules of the House, enacted expressly or impliedly as an exercise of the House’s rule-making authority. At the beginning of each Congress, it is customary for the House to re-incorporate by reference in the resolution adopting its rules such “legislative procedure” procedures as may exist in current law. Nevertheless, because the House retains the constitutional right to

change its rules at any time, the Committee on Rules may report a resolution varying the statutorily prescribed procedures for the House.

Below is a compilation of the various provisions in “legislative procedure” statutes setting forth “privileged procedures” to be followed by the House when considering executive actions, together with any annotations of decisions of the Chair interpreting those provisions. Although some annotations provide pertinent legislative history, this compilation does not endeavor to provide a comprehensive record of legislative history for every provision. Excerpts of the Balanced Budget and Emergency Deficit Control Act, formerly carried after the Congressional Budget Act, have been scaled down and moved to this segment of the Manual for quick reference to the legislative procedures therein. The primary enforcement mechanisms in the statute (such as sequestration) are no longer carried because they are not legislative procedures. However, sections 250, 251, and 252 operate in conjunction with procedural provisions in title III of the Congressional Budget Act of 1974, *supra*. Sections 258, 258A, 258B, and 258C primarily provide for reporting and consideration of legislation in the Senate; therefore, only portions of those sections are carried here. A more thorough understanding of the statutory scheme requires the full statutory text (see 2 U.S.C. 900).

### MEASURES PRIVILEGED FOR CONSIDERATION IN THE HOUSE

1. Executive Reorganization.
2. War Powers Resolution.
3. National Emergencies Act.
4. International Emergency Economic Powers Act.
5. District of Columbia Home Rule Act.
6. Title X of the Congressional Budget and Impoundment Control Act of 1974.
  - A. Impoundment Control.
  - B. Line Item Veto Authority.
7. Foreign Spent Nuclear Fuel.
8. Pension Reform Act.
9. Multiemployer Guarantees, Revised Schedules.
10. Atomic Energy Act Provisions on Nuclear Non-Proliferation.
11. Trade Provisions.
  - A. Import Relief.
  - B. Freedom of Emigration.
  - C. Nondiscriminatory Treatment.
  - D. “Fast-Track” Procedures.
  - E. Narcotics Control Provisions.
  - F. Customs Duties, Negotiation and Implementation of Trade Agreements.

- G. Trade Promotion Authority.
- H. U.S. Participation in WTO.
- I. Burmese Freedom and Democracy Act.
- J. Prohibition on import restrictions that would threaten to impair national security.
- 12. Federal Salary Act of 1967.
- 13. Energy Policy and Conservation Act.
- 14. Extensions of Emergency Energy Authorities.
- 15. Nuclear Waste Fund Fees.
- 16. Arms Export Control.
  - A. Arms Export Control Act, § 36(b).
  - B. Arms Export Control Act, § 36(c).
  - C. Arms Export Control Act, § 36(d).
  - D. Arms Export Control Act, § 3.
  - E. Arms Export Control Act, §§ 62–63.
  - F. Arms Export Control Act, § 40(f).
- 17. Federal Election Commission Regulations.
- 18. Alaska Natural Gas Transportation Act of 1976.
- 19. Crude Oil Transportation Systems.
- 20. Alaska National Interest Lands Conservation Act.
- 21. Federal Land Policy and Management Act of 1976.
  - A. Land Use Planning.
  - B. Sales.
  - C. Withdrawals.
  - D. Review of Withdrawals.
- 22. Marine Fisheries Conservation Act.
- 23. Outer Continental Shelf Lands Act.
- 24. Nuclear Waste Policy Act of 1982.
  - A. High-level Radioactive Waste and Spent Nuclear Fuel.
  - B. Interim Storage Program.
  - C. Monitored Retrievable Storage.
- 25. Defense Base Closure and Realignment.
  - A. Defense Base Closure and Realignment Act of 1990.
  - B. Limitation on Military Construction Funds.
- 26. Congressional Accountability Act of 1995.
- 27. Termination of Cuban Economic Embargo.
- 28. Congressional Review of Agency Rulemaking.
- 29. The Balanced Budget and Emergency Deficit Control Act of 1985.
- 30. Andean Counterdrug Initiative.
- 31. Medicare Cost Containment.
- 32. Minimum Standards for Identification of Documents.
- 33. Independent Payment Advisory Board.

## 1. Executive Reorganization [5 U.S.C. 902–12]

### SEC. 902. DEFINITIONS

For the purpose of this chapter—

(1) “agency” means—

(A) an Executive agency or part thereof; and

(B) an office or officer in the executive branch; but does include the Government Accountability Office or the Comptroller General of the United States;